Calendar No. 867

99TH CONGRESS
2d Session

SENATE

REPORT
99-419

AMENDING THE WILD AND SCENIC RIVERS ACT

AUGUST 15 (legislative day, AUGUST 11), 1986.—Ordered to be printed

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

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REPORT

SEP 8 1986

together with

ADDITIONAL VIEWS

U. S. GOVT. PUBS.
DEPOSITORY 376

[To accompany S. 2466]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2466), to designate a segment of the Saline Bayou in Louisiana as a component of the National Wild and Scenic Rivers System, having considered the same, reports favorably thereon with amendments to the text and an amendment to the title and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. On page 2, line 3, strike the phrase "such sums as may be necessary", and insert in lieu thereof the phrase, "not to exceed $1,000,000".

2. On page 2, after line 4, add the following new sections:

SEC. 2. (a) Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by redesignating the paragraphs relating to the Au Sable River, the Tuolumne River, the Illinois River, and the Owyhee River as paragraphs (52) through (55) respectively.

(b)(1) The first sentence of section 3(b) of the Wild and Scenic Rivers Act is amended as follows:

(A) Strike out "one year from the date of this Act" and substitute "one year from the date of designation of such component under subsection (a)".

(B) Strike out the second parenthetical statement, "(which boundaries shall include an average of not more than 320 acres of land per mile measured from the ordinary high water mark on both sides of the river)".

(C) Strike out the semicolon and the remainder of the sentence after the words "its various segments" and substitute a period.

(2) The second sentence of section 3(b) of such Act is amended by striking out "Said boundaries, classification, and development plans" and substituting the words

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"Notice of the availability of the boundaries and classification, and of subsequent boundary amendments".

(3) Section 3 of such Act is amended by adding the following new subsections at the end:

"(c) Maps of all boundaries and descriptions of the classifications of designated river segments, and subsequent amendments to such boundaries, shall be available for public inspection in the offices of the administering agency in the District of Columbia and in locations convenient to the designated river.

"(d)(1) For rivers designated on or after January 1, 1986, the Federal agency charged with the administration of each component of the National Wild and Scenic Rivers System shall prepare a comprehensive management plan for such river segment to provide for the protection of the river values. The plan shall address resource protection, development of lands and facilities, user capacities, and other management practices necessary or desirable to achieve the purposes of this Act. The plan shall be coordinated with and may be incorporated into resource management planning for affected adjacent Federal lands. The plan shall be prepared, after consultation with State and local governments and the interested public within 3 full fiscal years after the date of designation. Notice of the completion and availability of such plan shall be published in the Federal Register.

"(2) For rivers designated before February 1, 1986, all boundaries, classifications, and plans shall be reviewed for conformity within the requirements of this subsection within 10 years through regular agency planning processes.".

SEC. 3. Section 4 of the Wild and Scenic Rivers Act is amended by adding a new subsection (d) after subsection (c):

"(d) The boundaries of any river proposed in section 5(a) of this Act for potential addition to the National Wild and Scenic Rivers System shall generally comprise that area measured within one-quarter mile from the ordinary high water mark on each side of the river. In the case of any designated river, prior to publication of boundaries pursuant to section 3(d) of this Act, the boundaries also shall comprise the same area. This subsection shall not be construed to limit the possible scope of the study report to address areas which may lie more than one-quarter mile from the ordinary high water mark on each side of the river.".

SEC. 4. Section 5 of the Wild and Scenic Rivers Act is amended as follows:

(a) In subsection (a) paragraph (90) relating to the North Umpqua is redesignated as paragraph (91).

(b) At the end of subsection (b)(1) add: "Studies of the rivers named in paragraphs (38), (55), (83), and (87) shall be completed and the reports transmitted to the Congress not later than January 1, 1987.".

(c) Amend paragraph (4) of subsection (b) to read as follows:

"(4) For the purposes of conducting the studies of rivers named in subsection (a), there are authorized to be appropriated such sums as necessary.".

SEC. 5. (a) Section 6(e) of the Wild and Scenic Rivers Act is amended by striking out "Congress in authorized" and substituting "Congress is authorized".

(b) Section 6(a) of the Wild and Scenic Rivers Act is amended by striking out "donation, and lands" in the second sentence and substituting "donation or by exchange in accordance with the provisions of section 206 of the Federal Land Policy and Management Act of 1976. Lands.".

(c) Section 6(a) of the Wild and Scenic Rivers Act is amended by inserting "(1)" after "(a)" and by adding the following at the end:

"(2) When a tract of land lies partially within and partially outside the boundaries of a component of the National Wild and Scenic Rivers System, the appropriate Secretary may, with the consent of the landowners for the portion outside the boundaries, acquire the entire tract. The land or interest therein so acquired outside the boundaries shall not be counted against the average 100-acre per mile fee title limitation of subsection (a)(1). The lands or interests therein outside such boundaries, shall be disposed of, consistent with existing authorities of law, by sale, lease, or exchange.".

(d) Section 6(b) of the Wild and Scenic Rivers Act is amended as follows:

(1) Insert in the first sentence "outside the ordinary high water mark on both sides of the river" after the word "acreage".

(2) Insert "in fee title" after the word "owned".

SEC. 6. (a) The second sentence of section 7(a) of the Wild and Scenic Rivers Act is amended by deleting "approval of this Act" and substituting "designation of a river as a component of the National Wild and Scenic Rivers System".

(b) Section 7(b) of the Wild and Scenic Rivers Act is amended as follows:

(1) In the first sentence after clause (i) insert a new clause (ii) as follows:

"(ii) during such interim period from the date a report is due and the time a report is actually submitted to the Congress; and".

(2) Redesignate existing clause (ii) as clause (iii).

(3) At the end of the second sentence, delete "approval of this Act" and insert in lieu thereof the words, "designation of a river for study as provided for in section 5 of this Act".

SEC. 7. Section 8(a) of the Wild and Scenic Rivers Act is amended by adding the following at the end thereof: "This subsection shall be be construed to limit the authorities granted in section 6(d) or section 14A of this Act.".

(SEC. 8. Section 9(b) of the Wild and Scenic Rivers Act is amended by striking out "issuance or leases," in the second sentence and subetituting "issuance of leases,".

SEC. 9. Section 11 of the Wild and Scenic Rivers Act is amended by deleting the second sentence in subsection (a) and by amending section (b) to read as follows:

"(b)(1) The Secretary of the Interior, the Secretary of Agriculture, or the head of any other Federal agency, shall assist, advise and cooperate with States or their political subdivisions, landowners, private organizations, or individuals to plan, protect, and manage river resources. Such assistance, advice, and cooperation may be through written agreements or otherwise. This authority applies within or outside a federally administered area and applies to rivers which are components of the Wild and Scenic Rivers System and to other rivers. Any agreement under this subsection may include provisions for limited financial or other assistance to encourage participation in the acquisition, protection, and management of river resources.

"(2) Wherever appropriate in furtherance of this Act, the Secretary of Agriculture and the Secretary of the Interior are authorized and encouraged to utilize the following:

"(A) For activities on federally owned land, the Volunteers in the Parks Act of 1969 (16 U.S.C. 18g-j) and the Volunteers in the Forest Act of 1972 (16 U.S.C. 558a-558d).

"(B) For activities on all other lands, section 6 of the Land and Water Conservation Fund Act of 1965 (relating to the development of statewide comprehensive outdoor recreation plans).

"(3) For purposes of this subsection, the appropriate Secretary or the head of any Federal agency may utilize and make available Federal facilities, equipment, tools and technical assistance to volunteers and volunteer organizations, subject to such limitations and restrictions as the appropriate Secretary or the head of any Federal agency deems necessary or desirable.

"(4) No permit or other authorization provided for under provisions of any other Federal law shall be conditioned on the existence of any agreement provided for in this section.".

SEC. 10. Section 12(c) of the Wild and Scenic Rivers Act is amended by deleting the words "Secretary of the Interior" and inserting in lieu thereof the words "Administrator, Environmental Protection Agency".

SEC. 11. Section 14 of the Wild and Scenic Rivers Act is amended by inserting "(a)" after "14." and adding a new subsection (b) as follows:

"(b) For the conservation purposes of preserving or enhancing the values of components of the National Wild and Scenic Rivers System, and environs thereof as determined by the appropriate Secretary, landowners are authorized to donate or otherwise convey qualified real property interests to qualified organizations consistent with section 170(h)(3) of the Internal Revenue Code of 1954. Such interest may include, but shall not be limited to, rights-of-way, open space, scenic, or conservation easements, without regard to any limitation on the nature of the estate or interest otherwise transferable within the jurisdiction where the land is located. The conveyance of any such interest in land in accordance with this subsection shall be deemed to further a Federal conservation policy and yield a significant public benefit for purposes of section 6 of Public Law 96-541.".

SEC. 12. Section 16(c) of the Wild and Scenic Rivers Act is amended by adding at the end thereof: "For any designated wild and scenic river, the appropriate Secretary shall treat the acquisition of fee title with the reservation of regular existing uses to the owner as a scenic easement for purposes of this Act. Such an acquisition shall not constitute fee title ownership for purposes of section 6(b).".

3. Amend the title so as to read: "A bill to designate a segment of the Laline Bayou in Louisiana as a component of the National Wild and Scenic Rivers System, and for other purposes.".

READEX FICHE

Purpose of the Measure

S. 2466, as reported, would designate 19 miles of the Saline Bayou from Saline Lake upstream to the Kisatchie National Forest boundary as a component of the National Wild and Scenic Rivers System and would make a number of technical, clarifying and conforming amendments in the Wild and Scenic Rivers Act of 1968.

Background and Need

Saline Bayou is recognized as one of Louisiana's most scenic and unique streams. Its headwaters are formed from the union of Baker's Creek, Williams Creek and Saline Creek just south of Arcadia in Bienville Parish. From its origin, the bayou winds southward for approximately 40 miles to the northern end of Saline Lake. The recreation uses in the river corridor are primarily canoeing, fishing, and hunting.

The 19 miles that the bill designates are within the boundaries of the Kisatchie National Forest. The Final Forest Plan and Environmental Impact Statement issued by the Forest Service in 1985 recommended that the 19 miles of the Saline Bayou within the forest boundary be studied for possible inclusion in the National Wild and Scenic Rivers System. In the plan, the Forest Service determined that the river is eligible, based on its scenic quality and recreation potential.

Approximately 28 percent of the river corridor to be designated in S. 2466 is privately owned but the Forest Service does not anticipate a need to acquire the lands to protect river values. These private lands are essentially undeveloped flood plains of predominatly bottom-land hardwoods. There are no water projects proposed in the segment of Saline Bayou to be designated in S. 2466. S. 2466 authorizes up to $1,000,000 for land acquisition.

The House passed H.R. 4350, an omnibus measure of additions to the Wild and Scenic Rivers System, and included amendments of technical, clarifying and conforming amendments to the Wild and Scenic Rivers Act of 1968. The amendments are supported by the Administration. In addition, the amendments include provisions regarding the use of volunteers, the disposition of excess property, and the donation of conservation easements. Each of these last three provisions has passed the Committee and the Senate in the context of amendments to the National Trails System Act.

Although no hearings have been held in the Senate on these amendments, it was the Committee's view that the record was sufficiently complete to proceed at this time. Therefore, S. 2466 was amended to include these amendments.

Legislative History

S. 2466 was introduced by Senator Johnston on May 20, 1986. The Subcommittee of Public Lands, Reserved Water and Resource Conservation held a hearing on the bill on June 20, 1986. The House of Representatives approved similar language on April 8, 1986, as a provision in H.R. 4350. The Department of Agriculture supports the enactment of S. 2466. However, the Administration

recommends that further action on the bill be deferred until the study has been completed.

At a business meeting on August 14, 1986, the Senate Committee on Energy and Natural Resources ordered S. 2466, as amended, favorably reported.

Committee Recommendations and Tabulation of Votes

The Senate Committee on Energy and Natural Resources, in open business session on August 14, 1986, by unanimous vote of a quorum present recommends that the Senate pass S. 2466, if amended, as described herein.

The rollcall vote on reporting the measure was 18 yeas, 0 nays as follows:

YEAS	NAYS
Mr. McClure	
Mr. Hatfield*	
Mr. Weicker*	
Mr. Domenici	
Mr. Wallop*	
Mr. Warner	
Mr. Murkowski*	
Mr. Nickles	
Mr. Hecht	
Mr. Evans	
Mr. Johnston	
Mr. Bumpers	
Mr. Ford	
Mr. Metzenbaum*	
Mr. Melcher*	
Mr. Bradley	
Mr. Bingaman	
Mr. Rockefeller	

*Indicates voted by proxy.

Committee Amendments

The Committee made three amendments to S. 2466 as introduced. Amendment number 1 placed an authorization ceiling of $1,000,000 for development and the acquisition of lands and interests therein.

Amendment number 2 adds several new sections to S. 2466.

Section 2. This section redesignates the subparagraph numbers of certain rivers for internal consistency; clarifies the date from which the Secretary makes boundaries and classifications; clarifies that boundaries include an average of not more than 320 acres of land per mile measured from the ordinary high water mark on both sides of a river; and deletes the requirements for a development plan within one year. It also provides that notice of availability of boundaries and classifications and subsequent boundary amendments will be published in the Federal Register, and provides that maps of such boundaries and amendments will be conveniently located in agency offices for public inspection. Finally, it provides for comprehensive management plans to be prepared for

rivers designated after January 1, 1986 which will protest river values. For rivers designated prior to that date, the existing boundaries, classifications and plans will be reviewed for consistency with the amendment within 10 years through normal agency planning processes.

The Committee intends that publishing notice of the availability of boundaries and classifications and making maps and descriptions available to the public will provide the same level of public notice as was previously provided by publication of such information in the Federal Register.

The new provision for comprehensive plans is not intended to negate any existing river management plans, but that normal agency planning processes for adjacent lands will address river protection in conformity with the requirements for comprehensive plans.

Section 3 provides that the boundaries of study rivers shall generally comprise the area one-quarter mile from the ordinary high water mark of each side of the river. Designated rivers shall also be considered to have the same boundaries (unless modified by legislative action) until formal boundaries are established pursuant to section 3(b). The Committee intends this provision to clarify the question of the extent of the boundaries for study rivers and newly designated rivers for purposes of applying the protections of section 7(b) of the Wild and Scenic River Act and section 522(e)(1) of the Surface Mining Control and Reclamation Act of 1977. However, it is not the Committee's intention that the general description of boundaries for study rivers for these limited purposes will in any way limit the reasonable scope of a river study mandated by section 5 of the Act.

Section 4 clarifies the Wild and Scenic River Act by redesignating the paragraph numbering of section 3. It also extends the time for submission of studies for four rivers until January 1, 1987, and authorizes appropriations for studies.

Section 5 makes clerical corrections. Section 6(a) of the Act is amended to permit the acquisition of state owned lands within wild and scenic river boundaries by exchange. In addition, whole tract acquisition is permitted when land is located both inside and outside the boundaries of a Wild and Scenic River. The Committee expects this authority to be used primarily in those situations where whole tract acquisition is financially advantageous to the United States instead of paying such owners severence fees. Unlike the House-passed amendments, the Committee reported version directs the Secretary to dispose of all lands outside the river boundary acquired pursuant to this new "whole tract" authority. Section 6(b) is amended to clarify the scope of federal ownership restrictions to refer to lands in fee ownership outside the ordinary high mark on both sides of the designated rivers.

Section 6 amends section 7 to clarify subsection (a) as to the date of designation of a river for purposes of determining whether activities above or below designated portions of a river will unreasonably diminish the river values. An analogous amendment is made to subsection (b) pertaining to study rivers. Additionally, the time periods during which the protections of section 7(b) apply to study rivers have been clarified to run from the date of study designation

to three years for Congressional consideration. The Committee intends that the clarification of the time periods of section 7(b) protections will eliminate any question that river protections do not lapse because of any delays in the submission of reports to Congress.

Section 7 amends section 8 of the Act of clarify that the authorities of section 6(d) and section 14A of the Act are not limited by the withdrawal of lands from entry and disposition under the public lands laws

Section 8 is a clerical correction in the act.

Section 9 amends section 11 of the Act to expand the cooperative authorities of Federal agencies with state, local and private entities in the planning, protection and management of river resources. Additionally, the Secretaries of Agriculture and the Interior and encouraged to utilize the various statutes allowing for volunteer assistance. The Committee notes that similar provisions were enacted in section 207(g) of the 1983 Amendments to the National Trails System Act (P.L. 98–11).

The Committee also notes that Section 9 is not intended to directly impact non-Federal lands within or outside of a federally administered area of a component of the wild and scenic river system or other rivers to which this section applies. It is the Committee's intent to allow only Federal technical assistance under this section, to states, local governments or private entities that request such assistance for the purpose of improving the management of river resources. In this regard, Section 9 should not be construed as imposing any new Federal management authority on non-Federal lands as defined within this section.

Section 10 amends section 12(c) to reference the Environmental Protection Agency as the principal federal agency in charge of abating water pollution.

Section 11 adds a provision pertaining to the donation of lands and interests in lands to private nonprofit organizations. The Committee intends that this provision will facilitate the donation of conservation easements to organizations such as private land trusts and other conservation groups. The new provisions validates, as a matter of federal law, all conveyances of partial interests in land notwithstanding whether such interests are recognized under state law. For example, the Committee understands that easements in gross are not otherwise tranferable under some state laws. Likewise, such conveyances would be deemed to further a Federal conservation policy and yield a significant public benefits for purposes of section 6 of Public Law 96–541. The Committee notes that this provision is similar to that in section 207(i) of the 1983 Amendments to the National Trails System Act (P.L. 98–111).

Section 12 amends section 16(c) of the Act which defines a scenic easement. The amendment would allow the appropriate Secretary to acquire fee title to a tract of land allowing the landowner to retain in perpetuity all regular existing uses of the land. Such an estate in land acquired by the United States would be deemed a scenic easement and would not constitute fee ownership for the calculation of fee title lands under section 6(b). The Committee understands that this amendment will permit the utilization of reserved interest deeds which should more clearly delineate the interests in

land acquired by the government and such interests reserved by the landowner thereby reducing ambiguities for all parties concerned.

Amendment number 3 amends the title of the bill.

Cost and Budgetary Considerations

The following estimate of the cost of this measure has been provided by the Congressional Budget Office.

U.S. Congress,
Congressional Budget Office,
Washington, DC, August 15, 1986.

Hon. James A. McClure,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed S. 2466, a bill to designate a segment of the Saline Bayou in Louisiana as a component of the National Wild and Scenic River System, as ordered reported by the Senate Committee on Energy and Natural Resources, August 14, 1986.

S. 2466 would authorize the appropriation of not more than $1 million after September 30, 1986 for land acquisition and development costs associated with this bill. The bill would also make a number of technical changes to the Wild and Scenic Rivers Act of 1968.

Based on information from the Forest Service, CBO estimates that administrative and development costs related to the river segment designated by the bill will total approximately $120,000 over the five years beginning in 1987. The other provisions of the bill are not expected to have a significant impact on the federal budget.

Enactment of the bill is not expected to affect the budget of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes.

Sincerely,

Rudolph G. Penner, *Director.*

Regulatory Impact Evaluation

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2466. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result form the enactment of S. 2466, as reported.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the Committee from the Departmental of Agriculture setting forth executive agency recommendations relating to S. 2466 is set forth below:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, August 4, 1986.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you requested here is our report on S. 2466, a bill "To designate a segment of the Saline Bayou in Louisiana as a component of the National Wild and Scenic Rivers System."

The Department of Agriculture recommends that action on S. 2466 be deferred until completion of our Wild and Scenic Rivers Study.

S. 2466 would designate 19 miles of Saline Bayou from Saline Lake upstream to the Kisatchie National Forest boundary as a component of the National Wild and Scenic Rivers System. Saline Bayou is recognized as one of Louisiana's most scenic and unique streams. Its headwaters are formed from the union of Baker's Creek, Williams Creek, and Saline Creek just south of Arcadia in Bienville Parish. From its origin, the bayou winds southward for approximately 40 miles to the northern end of Saline Lake. The recreation uses in the river corridor are primarily canoeing, fishing, and hunting.

The 19 miles that are proposed for designation are within the boundaries of the Kisatchie National Forest. The 33 miles of the Saline from its headwaters to 7 miles above Saline Lake are included in the Louisiana State Scenic and Natural Streams System. This system prohibits channelization, clearing and snagging, and channel realignment on designated rivers and is administered by the Louisiana Department of Wildlife and Fisheries. Twelve miles of the 33-mile State designation overlap the segment proposed in S. 2466.

In our Final Forest Plan and Environmental Impact Statement for the Kisatchie National Forest issued in September 1985, we recommended that the 19 miles of the Saline Bayou within the forest boundary be studied for possible inclusion in the National Wild and Scenic Rivers System. We determined that the river is eligible, based on its scenic quality and recreation potential. The public comments on this proposal were generally supportive of this study or designation. Normally, more detailed evaluation of resource values and public response would occur as part of a specific river study.

Approximately 28 percent of the river corridor to be designated in S. 2466 is privately owned. These private lands are essentially undeveloped flood plains of predominantly bottom-land hardwoods. We do not anticipate a need to acquire lands along the Saline Bayou to protect river values if it were designated. Significant de-

velopment or timber harvest on private land is not expected due to the fact that most of the corridor is within the flood plain.

Some timber harvest has occurred on both Federal and private lands, but not to the riverbank. There are no water projects proposed in the segment of Saline Bayou to be designated in S. 2466.

While we believe it is likely that the Administration could support the designation of Saline Bayou as a component of the National Wild and Scenic Rivers System after completion of our study, we recommend that further action on the bill be deferred until the study has been completed.

The Office of Management and Budget advises there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

RICHARD E. LYNG, *Secretary.*

ADDITIONAL VIEWS OF SENATOR JOHNSTON

During the Committee's consideration of S. 2466, the Committee adopted my amendments making a number of technical, perfecting, and clarifying changes to the Wild and Scenic Rivers Act of 1968. These amendments passed the House overwhelmingly earlier this year as a part of H.R. 4350 and are supported by the Administration as well as those interested in river conservation and protection.

While I wholeheartedly support the Committee's decision to report the Saline Bayou legislation with these amendments, I am disappointed that the Committee chose to make a change which I believe will not serve the Wild and Scenic Rivers System or the federal land managing agencies well.

One of the amendments included in the package I offered would have given the appropriate Secretary the authority to acquire, with the consent of the owner, an entire tract when the tract is partly within and partly outside the Wild and Scenic River boundary. Under this amendment, the additional acreage acquired outside the boundary would not be counted against the 100-acre per mile fee title limitation in the Act. Should the Secretary determined that these additional lands are not needed for outdoor recreation or other related purposes, he would have the authority to dispose of these lands by sale, lease, or exchange in accordance with the existing law.

This amendment was patterned after a provision included in the amendments to the National Trails System Act adopted by the Committee and the Senate in 1983. At the time that amendment was approved by the Senate, Senator Wallop noted that this concept was an outgrowth of workshops on land acquisition that he conducted as the Chairman of the Subcommittee on Public Lands, Reserved Water, and Resource Conservation. Senator Wallop hailed this approach as a way to "accomplish an appropriate level of protection and at the same time reduce Federal costs."

I share that sentiment and hope that the action taken by the Committee on this measure does not signal a retreat from that view.

Rather than increase or encourage federal land acquisition (condemnation) efforts, the purpose of the amendment I offered is just the opposite. It is designed to encourage a cooperative effort between the Secretary and the landowner to work out certain acquisitions by mutual consent and with mutual benefits accruing to both.

The change adopted by the Committee would *require* the Secretary to dispose of any lands acquired outside the Wild and Scenic River boundary rather than give him discretion to dispose of this land. The Forest Service has indicated that this could well lead to

the creation of *more* inholdings within the Wild and Scenic Rivers System rather than less. I fear that the mandatory nature of this provision will mean that the authority will not be used and an opportunity to address an important land acquisition problem will be lost.

J. BENNETT JOHNSTON.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 2466, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

WILD AND SCENIC RIVERS ACT

Public Law 90-542

(82 Stat. 906)

SEC. 3. (a) The following rivers and the land adjacent thereto are hereby designated as components of the national wild and scenic rivers system:

(1) * * *

* * * * * * *

[(51)] *(52)* AU SABLE, MICHIGAN.—The segment of the main stem from the project boundary of the Mio Pond project downstream to the project boundary at Alcona Pond project as generally depicted on a map entitled "Au Sable River" which is on file and available for public inspection in the Office of the Chief, Forest Service, United States Department of Agriculture; to be administered by the Secretary of Agriculture.

[(52)] *(53)* TUOLUMNE, CALIFORNIA.—The main river from its sources on Mount Dana and Mount Lyell in Yosemite National Park to Don Pedro Reservoir consisting of approximately 83 miles as generally depicted on the proposed boundary map entitled "Alternative A" contained in the Draft Tuolumne Wild and Scenic River Study and Environmental Impact Statement published by the United States Department of the Interior and Department of Agriculture in May 1979; to be administered by the Secretary of the Interior and the Secretary of Agriculture. After consultation with State and local governments and the interested public and within two years from the date of enactment of this paragraph, the Secretary shall take such action as is required under subsection (b) of this section. Nothing in this Act shall preclude the licensing, development, operation, or maintenance of water resources facilities on those portions of the North Fork, Middle Fork or South Fork of the Tuolumne or Clavey Rivers that are outside the boundary of the wild and scenic river area as designated in this section. Nothing in this section is intended or shall be construed to affect any rights, obligations, privileges, or benefits granted under any prior authority of law including chapter 4 of the Act of December 19, 1913, commonly referred to as the Raker Act (38 Stat. 242) and in-

cluding any agreement or administrative ruling entered into or made effective before the enactment of this paragraph. For fiscal years commencing after September 30, 1985, there are authorized to be appropriated such sums as may be necessary to implement the provisions of this subsection.

[(52)] *(54)* ILLINOIS, OREGON.—The segment from the boundary of the Siskiyou National Forest downstream to its confluence with the Rogue River as generally depicited on a map entitled "Illinois River Study" and is also part of report entitled "A proposal: Illinois Wild and Scenic River." to be administered by the Secretary of Agriculture. After consultation with State and local governments and the interested public, the Secretary shall take such action as is required under subsection (b) of this section within one year from the date of enactment of this paragraph. For the purposes of this Act with respect to the river designated by this paragraph, effective October 1, 1984, there are authorized to be appropriated such sums as necessary for the acquisition of lands or interests in lands, and such sums as necessary for development.

[(53)] *(55)* OWYHEE, OREGON.—The South Fork from the Idaho-Oregon State line downstream to Three Forks; the Owyhee River from Three Forks downstream to China Gulch; and the Owyhee River downstream from Crooked Creek to the Owyhee Reservoir as generally depicted on a map entitled "Owyhee, Oregon" dated April 1984; all three segments to be administered as a wild river by the Secretary of the Interior. After consultation with State and local governments and the interested public, the Secretary shall take such appropriate action as is required under subsection (b) of this section within one year from the date of enactment of this paragraph. For the purposes of this Act with respect to the river designated by this paragraph, effective October 1, 1984, there are authorized to be appropriated such sums as necessary for the acquisition of lands or interests and such sums as necessary for development.

(56) SALINE BAYOU, LOUISIANA.—The segment from Saline Lake upstream to the Kisatchie National Forest, as generally depicted on the Proposed Boundary Map, numbered fs-57, and dated March 1986; to be administered by the Secretary of Agriculture. For the purposes of the segment designated by this paragraph, there are authorized to be appropriated for fiscal years commencing after September 30, 1986, not to exceed $1,000,000 for the acquisition of lands and interests in lands and for development.

(b) The agency charged with the administration of each component of the national wild and scenic rivers system designated by subsection (a) of this section shall, within [one year from the date of this Act] *one year from the date of designation of such component under subsection (a)* (except where a different date is provided in subsection (a)), establish detailed boundaries therefor [(which boundaries shall include an average of not more than three hundred and twenty acres per mile on both sides of the river)]; determine which of the classes outlined in section 2, subsection (b), of this Act best fit the river or its various segments[; and prepare a plan for necessary developments in connection with its administration in accordance with such classification.] [Said boundaries, classification, and development plans] *Notice of the availability of*

the boundaries and classification, and of subsequent boundary amendments shall be published in the Federal Register and shall not become effective until ninety days after they have been forwarded to the President of the Senate and the Speaker of the House of Representatives.

(c) Maps of all boundaries and descriptions of the classifications of designated river segments, and subsequent amendments to such boundaries, shall be available for public inspection in the offices of the administering agency in the District of Columbia and in locations convenient to the designated river.

(d)(1) For rivers designated on or after January 1, 1986, the Federal agency charged with the administration of each component of the National Wild and Scenic Rivers System shall prepare a comprehensive management plan for such river segment to provide for the protection of the river values. The plan shall address resource protection, development of lands and facilities, user capacities, and other management practices necessary or desirable to achieve the purpose of this Act. The plan shall be coordinated with and may be incorporated into resources management planning for affected adjacent Federal lands. The plan shall be prepared, after consultation with State and local governments and the interested public within 3 full years after the date of designation. Notice of the completion and availability of such plans shall be published in the Federal Register.

(2) For rivers designated before January 1, 1986, all boundaries, classifications, and plans shall be reviewed for conformity within the requirements of this subsection within 10 years through regular agency processes.

SEC. 4. (a) * * *

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(d) The boundaries of any river proposed in section 5(a) of this Act for potential addition to the National Wild and Scenic Rivers System shall generally comprise that area measured within one-quarter mile from the ordinary high water mark on each side of the river. In the case of any designated river, prior to publication of boundaries pursuant to section 3(b) of this Act, the boundaries also shall comprise the same area. This subsection shall not be construed to limit the possible scope of the study report to address areas which may lie more than one-quarter mile from the ordinary high water mark on each side of the river.

SEC. 5. (a) The following rivers are hereby designated for potential addition to the national wild and scenic rivers system:

(1) * * *

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[(90)] *(91)* The North Umpqua, Oregon; The segment from the Soda Springs Powerhouse to the confluence of Rock Creek. The provisions of section 7(a) shall apply to tributary Steamboat Creek in the same manner as such provisions apply to the rivers referred to in such section 7(a). The Secretary of Agriculture shall, in the Umpqua National Forest plan, provide that management practices for Steamboat Creek and its immediate environment conserve, protect, and enhance the anadromous fish habitat and population.

(b)(1) The studies of rivers named in subparagraphs (28) through (55) of subsection (a) of this section shall be completed and reports thereon submitted by not later than October 2, 1979: *Provided*, That with respect to the rivers named in subparagraphs (33), (50), and (51), the Secretaries shall not commence any studies until (i) the State legislature has acted with respect to such rivers or (ii) one year from the date of enactment of this Act, whichever is earlier. *Studies of the rivers named in paragraphs (38), (55), (83), and (87) shall be completed and the reports transmitted to the Congress not later than January 1, 1987.*

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[(4) There are authorized to be appropriated for the purpose of conducting the studies of the rivers named in subparagraphs (28) through (56) such sums as may be necessary, but not more than $4,060,000. There are authorized to be appropriated for the purpose of conducting the studies of the rivers named in subparagraphs (59) through (76) such sums as may be necessary. There are authorized to be appropriated for the purpose of conducting the study of the river named in paragraph (90) such sums as may be necessary.]

(4) For the purposes of conducting the studies of river named in subsection (a), there are authorized to be appropriated such sums as necessary.

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SEC. 6. (a)*(1)* The Secretary of the Interior and the Secretary of Agriculture are each authorized to acquire lands and interests in land within the authorized boundaries of any component of the national wild and scenic rivers system designated in section 3 of this Act, or hereafter designated for inclusion in the system by Act of Congress, which is administered by him, but he shall not acquire fee title to an average of more than 100 acres per mile on both sides of the river. Lands owned by a State may be acquired only by [donation, and lands] *donation or by exchange in accordance with the provisions of section 206 of the Federal Land Policy and Management Act of 1976. Lands* owned by an Indian tribe or a political subdivision of a State may not be acquired without the consent of the appropriate governing body thereof as long as the Indian tribe or political subdivision is following a plan for management and protection of the lands which the Secretary finds protects the land and assures its use for purposes consistent with this Act. Money appropriated for Federal purposes from the land and water conservation fund shall, without prejudice to the use of appropriations from other sources, be available to Federal departments and agencies for the acquisition of property for the purposes of this Act.

(2) When a tract of land lies partially within and partially outside the boundaries of a component of the National Wild and Scenic Rivers System, the appropriate Secretary may, with the consent of the landowners for the portion outside the boundaries, acquire the entire tract. The land or interest therein so acquired outside the boundaries shall not be counted against the average 100-acre per mile fee title limitation of subsection (a)(1). The lands or interests therein outside such boundaries, shall be disposed of, consistent with existing authorities of law, by sale, lease, or exchange.

(b) If 50 per centum or more of the entire acreage *outside the ordinary high water mark on both sides of the river* within a federally administered wild, scenic or recreational river area is owned *in fee title* by the United States, by the State or States within which it lies, or by political subdivisions of those States, neither Secretary shall acquire fee title to any lands by condemnation under authority of this Act. Nothing contained in this section, however, shall preclude the use of condemnation when necessary to clear title or to acquire scenic easments or such other easements as are reasonably necessary to give the public access to the river and to permit its members to traverse the length of the area or of selected segments thereof.

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(e) The head of any Federal department or agency having administrative jurisdiction over any lands or interests in land within the authorized boundaries of any federally administered component of the national wild and scenic rivers system designated in section 3 of this Act or hereafter designate for inclusion in the system by Act of [Congress in authorized] *Congress is authorized* to transfer to the appropriate Secretary jurisdiction over such lands for administration in accordance with the provisions of this Act. Lands acquired by or transferred to the Secretary of Agriculture for the purposes of this Act within or adjacent to a national forest shall upon such acquisition or transfer become national forest lands.

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SEC. 7. (a) The Federal Power Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act (41 Stat. 1063), as amended (16 U.S.C. 791a et seq.), on or directly affecting any river which is designated in section 3 of this Act as a component of the national wild and scenic rivers system or which is hereafter designated for inclusion in that system, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration. Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, development below or above a wild, scenic or recreational river area or on any stream tributary thereto which will not invade the area or unreasonably diminish the scenic, recreational, fish and wildlife values present in the area on the date of [approval of this Act.] *designation of a river as a component of the National Wild and Scenic River System.* No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration, or request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without advising the Secretary of the Interior or the Secretary of Agriculture, as the case may be, in writing of its intention so to do at least sixty days in advance, and

without specifically reporting to the Congress in writing at the time it makes its recommendation or request in what respect construction of such project would be in conflict with the purposes of this Act and would affect the component and the values to be protected by it under this Act. Any license heretofore or hereafter issued by the Federal Power Commission affecting the New River of North Carolina shall continue to be effective only for that portion of the river which is not included in the National Wild and Scenic Rivers System pursuant to section 2 of this Act and no project or undertaking so licensed shall be permitted to invade, inundate or otherwise adversely affect such river segment.

(b) The Federal Power Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act, as amended, on or directly affecting any river which is listed in section 5, subsection (a), of this Act, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river might be designated, as determined by the Secretary responsible for its study or approval—

(i) during the ten-year period following enactment of this Act or for a three complete fiscal year period following any Act of Congress designating any river for potential addition to the national wild and scenic rivers system, whichever is later, unless prior to the expiration of the relevant period, the Secretary of the Interior and, where national forest lands are involved, the Secretary of Agriculture, on the basis of Study, determine that such river should not be included in the national wild and scenic rivers system and notify the Committees on Interior and Insular Affairs of the United States Congress, in writing, including a copy of the study upon which the determination was made, at least one hundred and eighty days while Congress is in session prior to publishing notice to that effect in the Federal Register. *Provided,* That if any Act designating any river or rivers for potential addition to the national wild and scenic rivers system provides a period for the study or studies which exceeds such three complete fiscal year period the period provided for in such Act shall be substituted for the three complete fiscal year period in the provisions of this clause (i); and

(ii) during such interim period from the date a report is due and the time a report is actually submitted to the Congress; and

[(ii)] *(iii)* during such additional period thereafter as, in the case of any river the report for which is submitted to the President and the Congress for inclusion in the national wild and scenic rivers system, is necessary for congressional consideration thereof or, in the case of any river recommended to the Secretary of the Interior under section 2(a)(ii) of this Act, is necessary for the Secretary's consideration thereof, which additional period, however, shall not exceed three years in the first case and one year in the second.

Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above a potential wild, scenic or recreational river area or on any stream

tributary thereto which will not invade the area or diminish the scenic, recreational, and fish and wildlife values present in the potential wild, scenic or recreational river area on the date of [approval of this Act.] *designation of a river for study as provided for in section 5 of this Act.* No department or agency of the United States shall, during the periods hereinbefore specified, recommend authorization of any water resources project on any such river or request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without advising the Secretary of the Interior and, where national forest lands are involved, the Secretary of Agriculture in writing of its intention so to do at least sixty days in advance of doing so and without specifically reporting to the Congress in writing at the time it makes its recommendation or request in what respect construction of such project would be in conflict with the purposes of this Act and would affect the component and the values to be protected by it under this Act.

* * * * * * *

SEC. 8. All public lands within the authorized boundaries of any component of the national wild and scenic rivers system which is designated in section 3 of this Act or which is hereafter designated for inclusion in that system are hereby withdrawn from entry, sale, or other disposition under the public land laws of the United States. *This subsection shall not be construed to limit the authorities granted in section 6(d) or section 14A of this Act.*

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SEC. 9. (a) * * *

(b) The minerals in any Federal lands which constitute the bed or bank or are situated within one-quarter mile of the bank of any river which is listed in section 5, subsection (a) of this Act are hereby withdrawn from all forms of appropriation under the mining laws during the periods specified in section 7, subsection (b) of this Act. Nothing contained in this subsection shall be construed to forbid prospecting on the [issuance or leases,] *issuance of leases,* licenses, and permits under the mineral leasing laws subject to such conditions as the Secretary of the Interior and, in the case of national forest lands, the Secretrary of Agriculture find appropriate to safeguard the area in the event it is subsequently included in the system. Notwithstanding the foregoing provisions of this subsection or any other provision of this Act, all public lands which constitute the bed or bank, or are within an area extending two miles from the bank of the river channel on both sides of the river segments referred to in paragraphs (77) through (88) of section 5(a), are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto, during the periods specified in section 7(b) of this Act.

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SEC. 11. (a) The Secretary of the Interior shall encourage and assist the States to consider, in formulating and carrying out their comprehensive statewide outdoor recreation plans and proposals for financing assistance for State and local projects submitted pur-

suant to the Land and Water Conservation Fund Act of 1965 (78 State and opportunities for establishing State and local wild, scenic and recreational river areas. [He shall also, in accordance with the authority contained in the Act of May 28, 1963 (77 Stat. 49), provide technical assistance and advice to, and cooperate with, States, political subdivisions, and private interests, including nonprofit organizations, with respect to establishing such wild, scenic and recreational river areas.]

[(b) The Secretaries of Agriculture and of Health, Education, and Welfare shall likewise, in accordance with the authority vested in them, assist, advise, and cooperate with State and local agencies and private interests with respect to establishing such wild, scenic and recreational river areas.]

(b)(1) The Secretary of the Interior, the Secretary of Agriculture, or the head of any other Federal agency, shall assist, advise and cooperate with States or their political subdivisions, landowners, private organizations, or individuals, to plan, protect, and manage river resources. Such assistance, advice, and cooperation may be through written agreements or otherwise. This authority applies within or outside a federally administered area and applies to rivers which are components of the Wild and Scenic River System and to other rivers. Any agreement under this subsection may include provisions for limited financial or other assistance to encourage participation in the acquisition, protection, and management of river resources.

(2) Wherever appropriate in furtherance of this Act, the Secretary of Agriculture and the Secretary of the Interior are authorized and encouraged to utilize the following:

(A) For activities on federally owned land, the Volunteers in the Parks Act of 1969 (16 U.S.C. 18g-j) and the Volunteers in the Forest Act of 1972 (16 U.S.C. 558a–558d).

(B) For activities on all other lands, section 6 of the Land and Water Conservation Fund Act of 1965 (relating to the development of statewide comprehensive outdoor recreation plans).

(3) For purposes of this subsection, the appropriate Secretary or the head of any Federal agency may utilize and make available Federal facilities, equipment, tools and technical assistance to volunteers and volunteer equipment, tools and technical assistance to volunteers and volunteer organizations, subject to such limitations and restrictions as the appropriate Secretary or the head of any Federal agency deems necessary or desirable.

(4) No permit or other authorization provided for under provision of any other federal law shall be conditioned on the existence of any agreement provided for in this section.

SEC. 12 (a) * * *

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(c) The head of any agency administering a component of the national wild and scenic rivers system shall cooperate with the *Administrator, Environmental Protection Agency* [Secretary of the Interior] and with the appropriate State water pollution control agencies for the purpose of eliminating or diminishing the pollution of waters of the river.

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SEC. 14. *(a)* The claim and allowance of the value of an easement as a charitable contribution under section 170 of title 26, United States Code, or as a gift under section 2522 of said title shall constitute an agreement by the donor on behalf of himself, his heirs, and assigns that, if the terms of the instrument creating the easement are violated, the donee or the United States may acquire the servient estate of its fair market value as of the time the easement was donated minus to value of the easement claimed and allowed as a charitable contribution or gift.

(b) For the conservation purposes of preserving or enhancing the values of components of the National Wild and Scenic Rivers System, and environs thereof as determined by the appropriate Secretary, landowners are authorized to donate or otherwise convey qualified real property interests to qualified organizations consistent with section 170(h)(3) of the Internal Revenue Code of 1954. Such interest may include, but shall not be limited to, rights-of-way, open space, scenic, or conservation easements, without regard to any limitation on the nature of the estate or interest otherwise transferable within the jurisdiction where the land is located. The conveyance of any such interest in land in accordance with this subsection shall be deemed to further a Federal conservation policy and yield a significant public benefit for purposes of section 6 of Public Law 96-541.

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SEC. 16. As used in this act, the term—

(a) * * *

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(c) "Scenic easement" means the right to control the use of land (including the air space above such land) within the authorized boundaries of a component of the wild and scenic rivers system, for the purpose of protecting the natural qualities of a designated wild, scenic or recreational river area, but such control shall not affect, without the owner's consent, any regular use exercised prior to the acquisition of the easement. *For any designated wild and scenic river, the appropriate Secretary shall treat the acquisition of fee title with the reservation of regular existing uses to the owner as a scenic easement for purposes of this Act. Such an acquisition shall not constitute fee title ownership for purposes of section 6(b).*

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